

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN  
FRANCISCO, et al.,

Plaintiffs,

v.

PURDUE PHARMA L.P., et al.,

Defendants.

Case No. 18-cv-07591-CRB

**ORDER FOLLOWING APRIL 4,  
2022 PRETRIAL CONFERENCE**

On April 4, 2022, the Court held a pretrial conference regarding the trial scheduled to begin April 25, 2022. For the reasons discussed at the conference, the Court orders as follows:

- **Supplementary Witness Disclosures, Deadlines for Written Direct Testimony and Objections, and Exchange of Deposition Designations:** The Court adopts the procedures set forth in the parties' Joint Statement. Joint Statement (dkt. 1224) at 1, 3.
- **Third-Party Witnesses:** If a third-party witness is willing to provide a written declaration of their direct testimony, then their direct testimony shall be presented through declaration. If a third-party witness is unwilling to provide a written declaration of their testimony, then the witness may provide their direct testimony in person. Time taken for in person direct testimony of a third-party witness will count against the trial time of the party calling the witness.
- **Witness Summaries:** Written declarations of a witness's direct testimony shall

1 include a five-page summary of the witness's testimony. The summary will not  
 2 count against either side's 150,000-word limit. Before cross-examination, each  
 3 witness who submits their direct testimony through written declaration may take  
 4 no more than 30 minutes to offer a summary of their written direct testimony.  
 5 The summary of written direct testimony will not count against either side's trial  
 6 time. The Court will allow a summary to be presented through questioning by  
 7 the party who calls the witness (to the extent that a party prefers to present a  
 8 witness's summary through questioning).

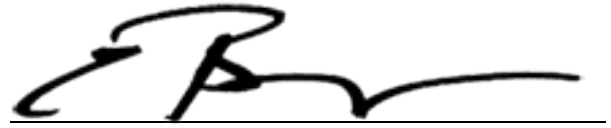
- 9 • **Expert Witnesses:** Expert witnesses shall present a summary of their testimony  
 10 before being subject to cross-examination, including voir dire. Instead of  
 11 including the expert's educational and employment background in their  
 12 declaration, the parties may attach an expert's CV to their declaration. The CV  
 13 will not count against either side's 150,000-word limit.
- 14 • **Findings of Fact and Conclusions of Law (FOFCOL):** The Court adopts  
 15 Plaintiff's proposal to submit FOFCOLs every two weeks but with a "one-week  
 16 lag time." Joint Statement at 5–6. During trial, the parties may make good faith  
 17 additions or removals to FOFCOLs.
- 18 • **Order of Witnesses:** The Court adopts the parties' proposal that the parties  
 19 present their witnesses in the order that they see fit. Joint Statement at 6–7.
- 20 • **Livestreaming:** In light of continuing concerns about the transmission of  
 21 COVID-19, the Court has determined that allowing livestreaming of the trial  
 22 will best serve the interests of the parties and the public. And the parties have  
 23 consented to a publicly available livestream. See Joint Statement regarding  
 24 Consent to Livestream Protocol (dkt. 1232). Accordingly, the trial will be  
 25 livestreamed through Zoom Webinar. The link to the Zoom Webinar will be  
 26 posted on the Court's webpage and will be available to both the parties and the  
 27 public alike. All livestream viewers will be in listen and view only mode and  
 28 will not be able to participate in the trial. If a party moves to present sealed

evidence, the Court will determine whether the livestream should be closed while the evidence is being presented. Any recording of the livestream, including “screenshots” or any other audio or visual copying, is strictly prohibited.

- **Timekeeping Protocol:** The Court makes the following modifications to paragraph 6 of the parties’ proposed timekeeping protocol:
  - At the end of each court day, the parties shall jointly meet and confer to confirm: (a) the time spent by the Plaintiff and Defendants that day, (b) the total time spent by the Plaintiff and Defendants to date, and (c) the total time that the Plaintiff and Defendants have remaining. For daily time estimates, if the parties’ calculations are within 15 minutes of each other (i.e. the estimates of the Plaintiff’s trial time that day are within 15 minutes of each other and the estimates of Defendants’ trial time that day are also within 15 minutes of each other), the parties shall average their respective calculations, and that average shall constitute the official tally for the day. If the parties are more than 15 minutes apart, they shall meet and confer to reach agreement. If agreement cannot be reached, the parties may seek the Court’s guidance.
  - Each morning, the parties shall jointly file a table that lists (a) the time spent by each side each day of trial, (b) the total time spent by each side to date, and (c) the total time that each side has remaining.
  - By **5 pm on April 8, 2022**, the parties shall submit a proposed order regarding the timekeeping procedure at trial that reflects the above modifications.
- **Trial Technology Set Up:** The courtroom will be open on **April 21, 2022 at 11 am** for each party to set up and check the technology they intend to use at trial.

**IT IS SO ORDERED.**

Dated: April 6, 2022



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CHARLES R. BREYER  
United States District Judge

United States District Court  
Northern District of California

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